or decree made for the occasion. The design of the convention was to exclude arbitrary power from every branch of the government; and there would be no exclusion of it, if such rescripts or decrees were allowed to take effect in the form of a statute." Gibson, C. J., in *Norman* v. *Heist*, 5 Watts & Serg. at p. 173. The holders of obligations payable in money of a specified kind may rely with tolerable certainty upon the protection of the United States Constitution, whatever may be the will of Congress.

CITATION OF AMERICAN CASES IN ENGLAND. — The part which American decisions ordinarily play in the English courts is so insignificant that it is surprising to find one of them actually mentioned in the head-note of an English case. The reporter's syllabus of *Kennedy* v. *Trafford*, [1896] 1 Ch. 763, contains these words: "*Van Horne* v. *Fonda*, 5 Johns. Ch. [N. Y.] 388, not followed." And the opinions of the judges show that the case figured prominently in the discussion. The incident called forth a spirited editorial in the Solicitors' Journal of June 13th, in which the writer protested strongly against allowing "English principle to be stifled by foreign competition," and quoted Lord Halsbury's remarks in *Re Missouri Steamship Co.*, 42 Ch. D. 321, 330: "We should treat with great respect the opinion of eminent American lawyers on points which arise before us, but the practice, which seems to be increasing, of quoting American decisions as authorities, in the same way as if they were decisions in our own courts, is wrong." Of course indiscriminate indulgence in the practice deplored by the learned Chancellor might well be frowned on by the English Bench. But Lord Halsbury certainly did not have in mind such an instance as this. *Van Horne* v. *Fonda* is the starting point of a peculiar and well established American doctrine. An English court, called upon for the first time to decide a point involving that doctrine, would hardly be performing its duty adequately if it ignored the leading American case.

A NEW PHASE OF THE RIGHT TO PRIVACY. — When a right is as vague and undefined as the right to privacy, to consider novel actions brought, as showing tendencies and possibilities in its development, has as much a place in current discussion as to comment on the actual decisions of the highest courts. The bringing of such a suit based on the right to privacy is noticed in 30 American Law Review, 582. A mother took her infant to a hospital, where it was operated upon in her presence before medical students. The suit is brought for the child by its next friend against the surgeon, who performed the operation. Two grounds are stated as infringements of its right to privacy, first, the publicity of the operation, and, secondly, the publication of a pamphlet containing a scientific account of the operation and illustrated by photographs taken for the purpose. Fictitious initials were used to conceal the child's identity.

Without going into the question of consent in this case, the important point is whether on such facts the right to privacy has been infringed at all. The difficulty to be met by the trial judge is at once apparent, when it is considered that no definition of this right has been given that can aid him, nor does any seem possible as yet. Its extent must be determined as cases come up by a process of elimination rather than definition. See Messrs. Warren and Brandeis' article, 4 HARVARD LAW REVIEW, 194.